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FYI – See Inside EPA article below:

## Daily News

# Industry Pushes Back On 'Zero Discharge' Option For Power Plant ELG

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Fearing EPA may pursue a strict, zero liquid discharge (ZLD) limit in its pending effluent limitation guidelines (ELG) for steam- and coal-fired power plants, industry is urging the agency to consider industry-collected data showing that the ZLD option would not remove enough toxic pollutants to meet the Clean Water Act's (CWA) requirement that the rule be cost effective.

Environmentalists have strongly pushed for a zero discharge limit, which may require installation of dry ash systems to sluice ash to a water trough and sump away from the boiler, where the water is removed so the ash can be disposed of to landfills or beneficially reused, arguing that the technology is available and that the CWA requires that level of stringency.

But industry has countered in the debate over the stringency of the ELG that retrofitting plants to install the technology would be cost-prohibitive for utilities, and that the technology has not yet been proven effective. One industry source says data that utilities recently submitted to EPA shows that "no discharge of ash sluice is a particularly expensive technology -- with very little toxic pollutant equivalent" benefit.

Additionally, groups representing rural utilities are pressing the White House Office of Management & Budget (OMB) to closely review the economic analysis underlying the ELG to ensure that the wastewater rules will not have significant adverse impacts on a large number of rural electric utilities.

EPA's proposed ELG, sent to OMB Jan. 15, is intended to revise technology standards for coal- and other steam-fired generators that were last updated in 1982.

Environmentalists and others say the rules are needed because waste releases from the plants are getting more toxic as a result of treatment technologies needed to comply with increasingly stringent air rules, including the agency's maximum achievable control technology air toxics rule for coal- and oil-fired power plants slated to take effect in 2015.

In 2010, environmentalists sued to force EPA to complete a review of the ELG, and the resulting settlement agreement in *Defenders of Wildlife, et al., v. Jackson* currently stipulates an April 19 deadline.

EPA has previously said the rule would apply to about 1,200 electric power plants, with a "particular focus on about 500 coal-fired power plants" adding that new air pollution controls drove the need to revise the current rules as they are expected to cause significant increases in the concentration of pollutants in effluent.

ELGs are technology-based limits that represent the greatest pollutant reductions that are economically achievable for an industry sector. EPA has considered several technologies that would ensure zero-discharge limits. According to a February 2012 document prepared for tribal consultation on the revised ELG, EPA said it was weighing technologies that would ensure no discharges of waste from the coal combustion process -- in particular remains from the flue gas desulfurization process, bottom

ash and fly ash, noting that the technology for dry ash transport is available.

Environmentalists, who have long sought to curtail wet coal ash disposal, have called for a zero-discharge limit in a new ELG, seeing it as a faster way to regulate the practice than long-stalled EPA coal ash rules being developed under the Resource Conservation & Recovery Act (RCRA).

But in a Feb. 24, 2012, document outlining particular technologies EPA is considering adopting in the ELG, the agency suggests that it is considering ZLD for bottom ash, which is currently mixed with water and stored in an ash pond or similar impoundment.

### **Regulatory Options**

A second industry source says the February 2012 document, as well as the agency's draft discharge permit for the Merrimack Station in New Hampshire, have given utilities a "sense for what options and what waste streams" EPA is leaning toward including in the forthcoming proposal. "The sector is concerned over the costs compared to what appears to be pollutants removed," that source adds, saying "it looks like a big bang for maybe not a lot of benefit" in terms of toxic waste reduction.

EPA has estimated in its February 2012 presentation to tribal governments that for the largest plants, this no discharge system would have about \$12 million in capital costs and \$1.7 in annual operation and management costs.

Industry groups, including American Public Power Association (APPA), Southern Company and Edison Electric Institute in a March 8 meeting with OMB officials to discuss the proposed ELG urged the agency to consider data collected by the Utility Water Act Group (UWAG) on primary pollutant reductions and costs of retrofitting plants to achieve a ZLD standard. "They've got to have the information right before they can start, to make sure it will be an appropriate policy," the first source says.

According to a [table summarizing the data](#) that was floated at the meeting, industry is estimating that total capital costs would be between \$20 million to \$30 million for the largest plants, with removal of toxic weighted pound equivalent (TWPE) being between 504 TWPE and 454 TWPE per year for those facilities. "Of the TWPE/year removed, approximately 41 percent is attributed to the source water (river) used for sluicing" causing industry to question the toxicity of the wastewater, the table says.

The first industry source characterized the discussion as a "good dialogue" and said the groups strove to highlight "our desire to work with EPA to provide scientifically accurate information." That source adds that the UWAG data is based on more recent sampling than what EPA gathered from facilities in its Information Collection Request, and that the UWAG data is more robust because it is based on a larger number of samples and was collected over a more appropriate time frame.

Similarly, in Dec. 7, 2011, comments submitted on the ELG, APPA argues that "we are concerned that the EPA is relying solely on the Information Collection Request data," even though facilities criticized the ICR as "confusing" and "difficult to answer."

### **Economic Analysis**

Meanwhile, the National Rural Electric Cooperative Association (NRECA) in a [March 20 meeting with OMB](#) officials highlighted that EPA has not pursued a formal small business advocacy review panel ahead of the pending proposed wastewater rules, indicating that the agency intends to claim the rules will not significantly affect small operators.

"Our request to OMB is, if EPA is proposing to certify that the rules will not have [significant small business] impacts, please make sure that's the case, and that their analysis properly considers the economic model and demographics for small rural co-ops," the second industry source, who is with NRECA, says.

Under the Small Business Regulatory Enforcement Fairness Act, EPA must convene a small business advocacy review panels before proposing rules "that will have a significant economic impact on a substantial number of small entities."

EPA did not yet convene such a panel over the ELG, leading to the NRECA's view that EPA is intending to propose that the rule will not have significant impacts on a substantial number of small facilities. "We hope that's true," the source says, saying that co-op members tend to be residents of rural areas that often have incomes lower than the U.S. average, higher poverty rates, and sometimes live in manufactured housing that is less energy efficient.

The purpose of the meeting was to stress to OMB the need for the rule to be based on cost-effective technology and to ensure the

rural co-op economic model is taken into account in those considerations, the source says.

Industry groups in both meetings reiterated the importance of EPA coordinating the ELG with its long-stalled RCRA rules for coal ash disposal, because they involve similar waste streams -- even as environmentalists in a meeting with OMB in February urged officials to avoid excess coordination of the rules, fearing further delays to the ELG.

"We've encouraged EPA to coordinate [the two rulemakings] because they're discussing the same waste stream," the first industry source says. -- *Bridget DiCosmo* ( [bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )